

REMARKS

The present application includes pending claims 1-25, all of which have been rejected. Claims 1, 7, 13, 19 and 23 have been amended to clarify aspects of the inventions.

Claims 1-25 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 6,445,688 ("Garces"). The Applicants respectfully traverse these rejections for at least the reasons previously discussed during prosecution and the following.

As an initial matter, the Office Action indicates that a "new title is required that is clearly indicative of the invention to which the claims are directed." See May 12, 2009 Office Action at page 4. In particular, the Office Action objects to "link layer and wired/wireless" in the title. See *id.* However, the Office Action cites no authority for requiring the title to be changed merely because the specific language of the title is not explicitly recited in the claims. Therefore, the Applicants respectfully request reconsideration of this objection.

The Applicants now turn to the rejection of claims 1-25 as being anticipated by Garces. The Applicants respectfully submit that Garces does not describe, teach or suggest "receiving a response from said at least one of a plurality of access points, said response reporting a presence of at least one access device located within a coverage area of said at least one of a plurality of access points, said at least one access device being separate and distinct from said at least one of a plurality of access points," as recited, for example, in claim 1.

Nevertheless, the Office Action states the following:

With regard to claims 1, 7, 13, 19, 23, Garces discloses ...

receiving a response (a sync response) from said at least one of a plurality of access points (WAP device L1130), the response reporting a presence of at least one access device (indicating WAP device 130 can send information) located within a coverage area (see Fig. 1) of said at least one of a plurality of access points (WAP device L1130 after receipt of a broadcast sync packet 212 from remote device K1 110 sends back a sync response 216 indicating WAP device 130

can send information to remote device K1110, col. 4, lines 33-38);

See May 12, 2009 Office Action at pages 4-5.

As shown above, the Office Action relies on Garces at column 4, lines 33-38 as disclosing the relevant limitations noted above. Referring to FIGS. 1-2 of Garces, the Applicants point out that after the remote device K1 110 broadcasts a synch packet, the WAP device L1 130 (which the Office Action relies upon as "said at least one of a plurality of access points") sends back to the remote device K1 110 a synch response 216 (which the Office Action relies upon as a "response").

However, the synch response 216 of Garces only indicates to the remote device K1 110, that the WAP device L1 130 can send information to the remote device K1 110. See Garces at column 4, lines 26-37. **Therefore, the synch response 216 does not report back to the remote device K1 110 a presence of at least one access device located within a coverage area of the WAP device L1 130, where such access device is separate and distinct from the WAP L1 130 (i.e., the access device is different from the WAP L1 130).**

For at least these reasons, the Applicants maintain that Garces does not describe, teach or suggest "receiving a response from said at least one of a plurality of access points, said response reporting a presence of at least one access device located within a coverage area of said at least one of a plurality of access points, said at least one access device being separate and distinct from said at least one of a plurality of access points," as recited in claim 1, for example.

The Applicants respectfully submit that claim 1 and the claims that depend therefrom are not anticipated by Garces. Independent claims 7, 13, 19, and 23 recite similar limitations. Therefore, the Applicants submit that independent claims 7, 13, 19, and 23 and the claims that depend therefrom are also not anticipated by Garces for at least the reasons stated above with regard to claim 1.

Nevertheless, the Office Action also indicates the following:

With regard to claim 1, Applicant states that "Garces does not disclose or suggest at least the limitation of 'receiving a response from said at least one of a plurality of access points, said response reporting a presence of at least one access device located within a coverage area of said at least one of a plurality of access points'". Remark, p. 13, para. 2. Applicant also states that "the synch response 216 does not reporting back to the remote device K1 110 a presence of at least one access device located within a coverage area of the WAP device L1 130." Remark, p. 14, para. 1. **Examiner has shown at least one form of reporting back using the sync response and at least one presence of access device, namely WAP device.**¹

See May 12, 2009 Office Action at page 2 (emphasis added).

As noted above, the Office Action equates "at least one of a plurality of access points," as recited in claim 1, to WAP device L1 130 of Garces. See May 12, 2009 Office Action at page 5. Further, the Office Action equates "response," as recited in claim 1, to sync response 216 of Garces. See *id.* Accordingly, if one were to map the claim according to the faulty logic in the Office Action, the relevant claim limitations would incorrectly read as follows:

receiving a [sync response 216] from [WAP device L1 130],
said [sync response 216] reporting a presence of at least
one access device located within a coverage area of said
[WAP device L1 130], said at least one access device being
separate and distinct from said [WAP device L1 130].

According to the claim reading adopted by the Office Action, therefore, in order for Garces to anticipate the claims, the "sync response" **must** report a presence of at least once access device (again, not the same thing as an access point) located within a coverage area of the WAP device L1 130. As explained above, however, Garces simply does not describe, teach or suggest that the sync response reports a presence of at least one access device located within a coverage area of the WAP device L1 130.

¹ Note, the Office Action seemingly conflates the WAP device L1 130 as both an access device **and** an access point, thereby contradicting the language of the claims.

Simply put, **the issue is whether the sync response 216 of Garces (which the Office Action assumes is a “response”) contains information and is reporting a presence of an access device (which is not the same as an access point) that is located within the coverage area of the WAP device L1 130 (which the Office Action assumes is “at least one of a plurality of access points”).** Whether or not the “Examiner has shown at least one form of reporting back using the sync response and at least one presence of access device, namely WAP device” (as stated above by the Examiner) is irrelevant, and, indeed, contradicts the language of the claims. That is, the Office Action seemingly conflates the WAP device L 1 130 as an access point **and** an access device, thereby contradicting the limitation in the claim that the access device **is separate and distinct from** the access point.

Further, as explained previously, the synch response 216 of Garces **only** indicates to the remote device K1 110 that the WAP device L1 130 can send information to the remote device K1 110. See Garces at column 4 lines 26-37 (“WAP device L1 130 after receipt of a broadcast sync packet 212 from remote device K1 110 sends back a sync response 216 indicating WAP device L1 130 [which the Office Action assumes is an **access point**] can send information to remote device K1 110”). Garces does not describe, teach or suggest, however, that the sync response 216 reports a presence of **any access device** that is located **within the coverage area of the WAP device L1 130**, where such access device is separate and distinct from the WAP L1 130 (i.e., the access device is different from the WAP L1 130).

For at least these reasons, the Applicants respectfully request reconsideration of the claim rejections.

In general, the Office Action makes various statements regarding the claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

Application № 10/606,503
Amendment Under 37 C.F.R. § 1.111

If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: August 5, 2009

MCANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000

Respectfully submitted,

/Joseph M. Butscher/
Joseph M. Butscher
Registration No. 48,326